

1 THE HONORABLE JOHN C. COUGHENOUR
2
3
4
5
6

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 LARENA HATLEY,

11 Plaintiff,

CASE NO. C21-0820-JCC

12 v.

ORDER

13 JOYCE L. MULLAN,

14 Defendant.

15 This matter comes before the Court on Defendant's motion for leave to amend her
16 Answer (Dkt. No. 57). Having thoroughly considered the motion and the relevant record, the
17 Court GRANTS it for the reasons explained herein.

18 Defendant seeks leave to amend her Answer to include the affirmative defense of failure
19 to mitigate. (See Dkt. No. 57-1 (proposed amended Answer).) Leave to do so under Rule 15(a)¹
20 "shall be freely given when justice so requires." *Carvalho v. Equifax Services, LLC*, 629 F.3d
21 876, 892 (9th Cir. 2010). The generosity in granting such leave is "to be applied with extreme
22 liberality." *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051–52 (9th Cir. 2003). The
23 Court considers five factors in deciding whether to do so: (1) bad faith, (2) undue delay, (3)
24 prejudice to the opposing party, (4) futility of amendment, and (5) whether the pleading has

25
26 ¹ Defendant's argument regarding application of the Rule 16(b) standard is inapt. (See Dkt. No.
59 at 5.) The Court previously vacated the Scheduling Order in this matter. (See Dkt. No. 54.)

1 previously been amended. *See, e.g., United States v. Corinthian Colleges*, 655 F.3d 984, 995 (9th
2 Cir. 2011). Prejudice is given the greatest weight. *See Eminence Capital, LLC*, 316 F.3d at 1052
3 (9th Cir. 2003) (describing it as the “touchstone of the inquiry”).

4 Based on an application of these factors, the Court FINDS that leave to amend is
5 warranted here. While Plaintiff suggests she would be prejudiced by amendment, (*see* Dkt. No.
6 59 at 12–13), she fails to describe *how*. And, while Defendant’s delay was significant and
7 concerning, the remaining factors all weigh in favor of amendment. Delay, alone, does not
8 warrant denying Defendant’s request.

9 Accordingly, Defendant’s motion (Dkt. No. 57) is GRANTED. Defendant shall amend
10 her Answer in the form provided in Docket Number 57-1 within two days of this ORDER.

11
12 DATED this 10th day of April 2023.

13
14
15
16 John C. Coughenour
17
18
19
20
21
22
23
24
25
26



John C. Coughenour
UNITED STATES DISTRICT JUDGE